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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
)
Establishment of Public Service)
Pool in the Private Mobile) RM -- 9405
Frequency Pool Below 800 MHZ)

To: The Commission

COMMENTS OF THE ASSOCIATION OF AMERICAN RAILROADS

The Association of American Railroads ("AAR"), by its undersigned counsel, pursuant to Sections 1.4, and 1.405,^{1/} of the Commission's rules and in response to the *Public Notice* released November 23, 1998,^{2/} hereby respectfully submits these comments to the above captioned petition for rule making.

I. Background and Preliminary Statement

AAR is a voluntary, non-profit organization composed of Class I member railroad companies operating in the United States, Canada and Mexico. AAR is the joint representative and agent of these railroads in connection with federal regulatory

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^{1/} See 47 C.F.R. §§ 1.4, 1.405.

^{2/} *Public Notice*, Office of Public Affairs Reference Operations Division Petitions for Rule Making Filed, Report No. 2306, (released November 23, 1998).

matters of common concern to the industry as a whole, including matters pertaining to regulation of communications. In addition, AAR functions as the frequency coordinator with respect to operation of land mobile and other radio-based services. As the frequency coordinator for the railroad community, AAR is intensely aware of the spectrum scarcity, and harmful interference issues that threaten the safe and efficient operation of the nation's railroads. Accordingly, AAR was pleased to have the opportunity to work with its counterparts in the utility, and petroleum and natural gas industries to submit the Petition now before the Commission.

II. The Critical Safety Function of the Railroads Communications Infrastructure Requires Heightened Protection.

A secure integrated communications network is vital to the safe operation of any rail system. In this regard, a 1994 "Report to Congress" by the Federal Railroad Administration reviewed in detail the various types of railroad communications systems, including those used for train movement and control, switching operations, defect detection and emergency response, and concluded that radio communications were an integral part of railroad safety planning and execution.^{3/}

These operational and safety uses are absolutely critical to the safe operation of railroads and cannot be jeopardized by interference from other spectrum users. The FCC explicitly recognized the critical nature of the railroads' use of mobile radio

^{3/} See *Railroad Communications and Train Control*, Federal Railroad Administration, Department of Transportation Report to Congress, July 1994 at 22-34 (hereafter FRA Report).

frequencies for safety and operational control and management of train movements in the "refarming" proceeding, wherein the Commission granted special coordination protection to railroad mobile radio channels due to their "quasi-public safety" nature in light of the potential threat of interference from non-railroad land mobile users.^{4/}

As described in the petition, there is a growing risk that new industrial and business systems may be licensed on some of the former railroad frequencies, thereby dramatically increasing the potential for dangerous interference to vital railroad communications systems. As with any radio communications system, the reliability of the railroad industry's integrated communications networks is only as good as the system's weakest link.

It is for these reasons that the railroad industry is vitally concerned about the risk presented to its critical communications infrastructure. Accordingly, AAR urges the Commission to adopt the recommendations of the petition and create a distinct Public Service Pool in the bands below 800 MHz. By separating the frequency assignments of the nation's critical infrastructure from the general pool of industrial and business allocations, the Commission can help ensure the continued efficient and safe operation of the nation's railroads.

^{4/} See *Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them; and Examination of Exclusivity and Frequency Assignments Policies of the Private Land Mobile Services*, PR Docket No. 92-235, FCC 97-61, *Second Report and Order*, ¶ 41 (released March 12, 1997) ("Refarming" proceeding).

III. Conclusion

AAR is pleased to see the Commission place this petition on *Public Notice* and looks forward to the Commission taking an active role to protect the integrity of the communications systems of the nation's critical infrastructure industries.

Respectfully submitted,

ASSOCIATION OF AMERICAN RAILROADS

By:

A handwritten signature in black ink, appearing to read "Thomas J. Keller", is written over a horizontal line.

Thomas J. Keller

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Date: December 23, 1998

CERTIFICATE OF SERVICE

I, Deirdre A. Johnson, a secretary for the law firm of Verner, Liipfert, Bernhard, McPherson, and Hand, Chartered, hereby certify that I have this 23rd day of December, 1998, caused a copy of the foregoing "Comments" to be sent, via First Class, United States Mail, postage prepaid to each of the following:

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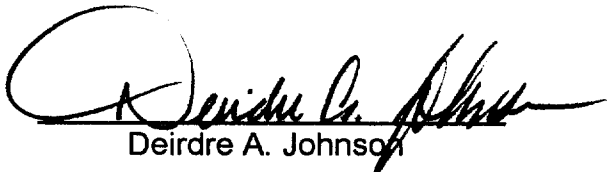
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